

Serial No. 10/053,299

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REMARKS

Allowed claim 2 has been cancelled and claim 1 has been amended to incorporate the limitation of claim 2, i.e. to place allowed claim 2 in independent form.

All of claims 3-9, 43, 44 and new claims 45-50 are now dependent or ultimately dependent on allowable claim 1. New claim 51 should be allowable since the microbial blocking quantity is "at least about 0.1 ug/cm²" which is the lower end of the range in allowed claim 2. New claim 52 and 53 should also be allowable since the Pederson reference is limited to the treatment of the oral cavity and the Zeng reference is limited to the treatment of the vagina.

All of the composition claims have been canceled to remove the issues raised by the Examiner and the Board of Appeals with respect to the composition claims.

On page 17 of the Board's decision, the Board has encouraged the Examiner and Appellants to consider an additional issue, i.e. whether or not metal ion is released from the amino acid during its reaction with the volatile sulfur compounds, leaving free amino acid behind. It is respectfully submitted that this issue is not relevant to allowable claim 1 as amended for the following reasons:

1. There is no indication in Pederson from which it can be concluded that any free amino acid that might be released by Pederson's chelate would meet requirements of allowable claim 1 (the microbial blocking range of allowed claim 2) or new claim 51.
2. Pederson makes a strong point that his chelates do not have a metallic taste or high degree of astringency, see e.g. the SUMMARY OF THE

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INVENTION. Metal salts that release metal ions, such as zinc acetate and zinc citrate "have a high degree of astringency and an undesirable metal taste." See e.g. lines 11-23 in column 3 of Pederson. Hence, it is submitted that Pederson's chelates do not typically release metal ions, or do so in only very tiny quantities.

3. Pederson does not state what he means by "suitable conditions" for the release of a metal ion in column 6, lines 40-45. He also refers to the release of "a metal ion", not metal ions.
4. The Board in raising this issue was referring to anticipation "of at least claim 1," not allowed claims 2-4, for which "there is insufficient evidence of record to sustain this rejection"(see page 15 of the Decision). Claim 1 prior to the present amendment, was interpreted "to cover any amount of blocking activity, including the blockade of one microbe from adhering to one cell." See the last paragraph of page 4 of the Decision.

In view of the amendments to the claims and the above discussion, it is respectfully contended that the claims remaining in the application as amended are free from section 103 rejections over the prior art.

Allowance of claims 1, 3-9, and 43-53 is respectfully requested.

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Respectfully submitted,

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